

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

vs.

Cr. No. 3:97CR 82-39 (SEC)

**MANUEL TORRES GALINDEZ ,
T/N VICTOR MANUEL TORRES GALINDO**

**MOTION REQUESTING THAT THE TERM OF SUPERVISED RELEASE IMPOSED
ON MAY 2, 2006, BE VACATED**

TO THE HONORABLE SALVADOR E. CASELLAS
SENIOR U.S. DISTRICT JUDGE
DISTRICT OF PUERTO RICO

COMES NOW, VICTOR CANINO U.S. PROBATION OFFICER of this Court,
requesting that the term of supervised release imposed against Mr. Victor Manuel Torres -Galindo
be vacated.

On July 7, 1999, Mr. Torres-Galindo was sentenced to seventy-eight months (78) incarceration after previously pleading guilty to violating 21 U.S.C. 846, conspiracy to possess with intent to distribute multi-kilograms of cocaine, heroin, and marijuana. The Court further imposed a four (4) year term of supervised release with the following conditions: The defendant shall refrain from unlawful use of a controlled substance and submit to one drug test within 15 days of release on supervised release, at least two periodic test thereafter and, whenever requested by the U.S. Probation Officer. If any such samples detect substance abuse, the defendant shall participate in a abuse treatment program arranged and approved by the U.S. Probation Officer until duly discharged by authorized program personnel with the approval of the U.S. Probation Officer; and the defendant shall provide the U.S. Probation Officer access to any financial information upon request, and shall

produce evidence to the U.S. Probation Officer to the effect that income tax returns have been duly filed with the Commonwealth of Puerto Rico Department of the Treasury as required by law. A \$100.00 special monetary assessment was also imposed.

On January 3, 2003, Mr. Torres-Galindo was released from the custody of the Bureau of Prison. During this term of supervision Mr. Torres-Galindo did not adjust well to supervision as evidenced by his subsequent revocation.

On November 4, 2003, the Court found by preponderance of the evidence that Mr. Torres-Galindo violated his conditions of supervised release and revoked his term of supervision. The Court sentenced Mr. Torres-Galindo to a twenty-one (21) month term of imprisonment to be followed by a twenty-seven (27) month term of supervised release with the following condition: The defendant shall provide the U.S. Probation Officer access to any financial information upon request, and shall produce evidence to the U.S. Probation Officer to the effect that income tax returns have been duly filed with the Commonwealth of Puerto Rico Department of the Treasury as required by law.

On March 18, 2005, the Bureau of Prisons released Mr. Torres Galindo from custody. This term of supervision was also fraught with problems as Mr. Torres-Galindo's term of supervised release was revoked a second time.

On May 12, 2006, Mr. Torres-Galindo's term of supervision was revoked and he was sentenced to a twenty-one (21) month term of incarceration to be followed by a six (6) month term of supervised release with the following conditions: The defendant shall refrain from unlawful use of a controlled substance and submit to one drug test within 15 days of release on supervised release, at least two periodic test, not to exceed 104 samples, thereafter and, whenever requested by the U.S.

Probation Officer. If any such samples detect substance abuse, the defendant shall participate in abuse treatment program arranged and approved by the U.S. Probation Officer until duly discharged by authorized program personnel with the approval of the U.S. Probation Officer. The defendant is required to contribute to the cost of treatment based on his ability to pay. The defendant shall provide the U.S. Probation Officer access to any financial information upon request, and shall produce evidence to the U.S. Probation Officer to the effect that income tax returns have been duly filed with the Commonwealth of Puerto Rico Department of the Treasury as required by law; and the defendant shall submit his person, residence, office or vehicle to a search, conducted by a United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition. On October 20, 2006, Mr. Torres-Galindo was released again from incarceration.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR
CAUSE AS FOLLOWS:**

Upon revising the case, it has come to the attention of the United States Probation Office that Mr. Torres-Galindo's term of supervised should be vacated as he was sentenced beyond the statutory maximum allowed by statute pursuant to 18 U.S.C. § 3583(e)(3). As such, the Court can not impose further incarceration should Mr. Torres Galindo violate the terms of his supervised release in the future.

WHEREFORE, of the aforementioned, unless ruled otherwise, it is respectfully recommended that Mr. Torres Galindo's six (6) month term of supervised release be terminated forthwith as there is no course of action the Court can undertake should Mr. Torres Galindo violate the term of his supervised release.

In San Juan, Puerto Rico, this 8th day of December 2006.

Respectfully submitted,

EUSTAQUIO BABILONIA, CHIEF
U.S. PROBATION OFFICER

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CERTIFICATE OF SERVICE

I HEREBY certify that on December 8, 2006, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Sonia I. Torres-Pabón, Assistant U.S. Attorney and Joseph Laws of the United States Federal Public defenders Office.

In San Juan, Puerto Rico, this 8th day of December 2006.

s/Victor M. Canino

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